

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

MDL No. 1643

IN RE: EDUCATIONAL TESTING  
SERVICE PRAXIS  
PRINCIPLES OF LEARNING  
AND TEACHING: GRADES  
7-12 LITIGATION

SECTION: R(5)

JUDGE VANCE  
MAG. JUDGE CHASEZ

**THIS DOCUMENT RELATES TO ALL CASES**

**PRETRIAL ORDER #3:**

**Status Reports, Confidentiality, and Discovery Issues**

The Court held a pretrial conference on March 10, 2005.  
Accordingly, the Court enters the following order:

**1. Status Reports.**

A joint status report is due two full working days before each pretrial conference. The parties are to file an original report into the record and deliver two courtesy copies directly to chambers.

## **2. Proposed Confidentiality Order.**

The parties reached a consensus on a protective order to secure the confidentiality of documents, with the exception of one issue. Specifically, the parties dispute whether the plaintiffs should have a duty to notify ETS of the identities of outside experts and consultants before disclosing ETS's "attorneys only" confidential materials to them. The Court orders ETS to create a list of the persons or entities as to whom ETS would like advance notice and submit it to the Court and to the plaintiffs by March 24, 2005. The plaintiffs' response is due by April 11, 2005. ETS's reply is due by April 18, 2005.

Furthermore, the Court orders the parties to modify the protective order to reflect that when materials deemed confidential are filed in connection with dispositive motions or a hearing, the parties must move the Court to seal those materials if they wish to maintain confidentiality. The parties must make a specific showing that the materials filed should be shielded from public disclosure.

## **3. Joint Discovery Plan for Class Certification**

The parties have submitted a joint schedule for class certification discovery. The parties have not agreed on the appropriate number of depositions and on the propriety of

deposing non-named class members. Therefore, the Court orders the parties to brief the number of depositions that they propose to take, the reason they need the number of depositions they propose, and the propriety *vel non* of depositing non-named class members. The parties' briefs must be filed by April 1, 2005. Reply briefs are due by April 15, 2005.

**4. Service List**

Plaintiffs will file a complete service list by March 24, 2005.

**5. Next Conference**

The next pretrial conference will take place on Thursday, June 2, 2005 at 10:30 a.m. CST.

New Orleans, Louisiana, this 11th day of March, 2005.

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/s/ Sarah S. Vance  
SARAH S. VANCE  
UNITED STATES DISTRICT JUDGE